

ORAL ARGUMENT NOT YET SCHEDULED

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Nos. 23-1196, 24-1006

LOUISVILLE GAS AND ELECTRIC COMPANY AND
KENTUCKY UTILITIES COMPANY
PETITIONERS,

v.

FEDERAL ENERGY REGULATORY COMMISSION,
RESPONDENT.

On Petition For Review Of Agency Action By The
Federal Energy Regulatory Commission,
183 FERC ¶ 61,122 (May 18, 2023), 184 FERC ¶ 62,036 (July 17, 2023),
185 FERC ¶ 61,121 (November 16, 2023)

**UNOPPOSED MOTION TO CONTINUE LIMITED ABEYANCE
AND FOR ADDITIONAL TIME TO FILE MOTION TO GOVERN
FUTURE PROCEEDINGS**

Petitioners hereby move the Court to continue the abeyance of this case, including staying the deadline for the Respondent Federal Energy Regulatory Commission (the “Commission”) to file the record and for the filing of the Motion to Govern, for an additional sixty (60) days. Petitioners have been authorized to state that the Respondent

Commission does not oppose this motion. In further support of this motion, Petitioners state as follows:

1. On July 28, 2023, Petitioners Louisville Gas and Electric Company (“Louisville Gas and Electric”) and Kentucky Utilities Company (“Kentucky Utilities”) (collectively, “Petitioners”) petitioned this Court for review challenging Commission action reversing its prior acceptance of the removal of merger mitigation depancaking (“Order on Remand”), on remand from this Court’s decision in *Kentucky Municipal Energy Agency v. Federal Energy Regulatory Commission*, 45 F.4th 162 (D.C. Cir. 2022).

2. On December 5, 2023, this Court granted the motion filed by Petitioners Louisville Gas and Electric Company (“Louisville Gas and Electric”) and Kentucky Utilities Company (“Kentucky Utilities”) (collectively, “Petitioners”) to continue a limited abeyance and for additional time to file motions to govern future proceedings until February 15, 2024, to provide for additional time for the conclusion of Respondent Commission’s action in the underlying agency proceedings. No. 23-1196, Dkt.2030108.

3. On November 16, 2023, the Commission issued an order in a separate but related agency docket addressing Petitioners' compliance filing directed by the Commission in its Order on Remand. *Louisville Gas & Elec. Co.*, 185 FERC ¶ 61,120 (2023) (the "Compliance Order"). On January 16, 2024, the Commission issued a notice that Petitioners' request for rehearing of the Compliance Order has been denied by operation of law and stating that the merits of Petitioners' request for rehearing will be addressed in a future Commission order. *Louisville Gas & Elec. Co.*, 186 FERC ¶ 62,014 (2024) (the "Compliance Rehearing Notice"). Accordingly, Petitioners expect an additional Commission order addressing the merits of Petitioners' request for rehearing of the Compliance Order, after which agency action in the underlying proceedings will have concluded.*

4. Therefore, Petitioners hereby move the Court to continue the abeyance of this case, including staying the deadline for the Commission to file the record and for the filing of the Motion to Govern, for an

* Petitioners also petitioned this Court for review of the Compliance Order and Compliance Rehearing Notice on February 14, 2024 and requested that the Court consolidate that petition with the instant case. The Case No. for that petition is pending.

additional sixty (60) days, or until April 15, 2024, at which time Petitioners or Respondent would file appropriate motions to govern. Such a limited, additional abeyance period is justified to permit the agency proceedings below to conclude, thus allowing this Court to review the entirety of the relevant agency action in a consolidated proceeding.

5. Petitioners have been authorized to state that the Respondent Commission does not oppose this motion.

For the foregoing reasons, Petitioners respectfully request that this Court grant this motion and continue the abeyance of this case, including staying the deadline for the Commission to file the record and for the filing of the Motion to Govern, for an additional sixty (60) days.

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Dated: February 15, 2024

Respectfully Submitted,

CHRISTOPHER R. JONES
AMIE V. COLBY
MILES H. KIGER
TROUTMAN PEPPER
HAMILTON SANDERS LLP
401 9th Street NW, Suite 1000
Washington, DC 20004
(202) 662-2181 (CJ)
chris.jones@troutman.com
amie.colby@troutman.com
miles.kiger@troutman.com

/s/ Misha Tseytlin
MISHA TSEYTLIN
Counsel of Record
KEVIN M. LEROY
TROUTMAN PEPPER
HAMILTON SANDERS LLP
227 W. Monroe Street
Suite 3900
Chicago, IL 60606
(608) 999-1240 (MT)
(312) 759-1939 (fax)
misha.tseytlin@troutman.com
kevin.leroy@troutman.com

Attorneys for Petitioners

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I certify that the foregoing motion complies with the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 548 words, excluding the parts of the motion exempted by Rule of Appellate Procedure 32(f). I further certify that the foregoing motion's type size and type face comply with the Federal Rule of Appellate Procedure 32(a)(5) and (6).

Dated: February 15, 2024

Respectfully Submitted,

CHRISTOPHER R. JONES
AMIE V. COLBY
MILES H. KIGER
TROUTMAN PEPPER
HAMILTON SANDERS LLP
401 9th Street NW, Suite 1000
Washington, DC 20004
(202) 662-2181 (CJ)
chris.jones@troutman.com
amie.colby@troutman.com
miles.kiger@troutman.com

/s/ Misha Tseytlin
MISHA TSEYTLIN
Counsel of Record
KEVIN M. LEROY
TROUTMAN PEPPER
HAMILTON SANDERS LLP
227 W. Monroe Street
Suite 3900
Chicago, IL 60606
(608) 999-1240 (MT)
(312) 759-1939 (fax)
misha.tseytlin@troutman.com
kevin.leroy@troutman.com

Attorneys for Petitioners

CERTIFICATE OF SERVICE

Pursuant to Rule 25(d) of the Federal Rules of Appellate Procedure, I hereby certify that, on February 15, 2024, I caused the forgoing document to be electronically filed using the Court's CM/ECF system, which automatically provides email notification of the filing to the attorneys of record in the above captioned docket.

Dated: February 15, 2024

/s/ Misha Tseytlin

MISHA TSEYTLIN

Counsel of Record

TROUTMAN PEPPER

HAMILTON SANDERS LLP

227 W. Monroe Street

Suite 3900

Chicago, IL 60606

(608) 999-1240 (MT)

(312) 759-1939 (fax)

misha.tseytlin@troutman.com

Attorney for Petitioners